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No. 934

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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1948

GREENE COUNTY NATIONAL FARM LOAN  
ASSOCIATION, et al,  
Petitioners,

vs.

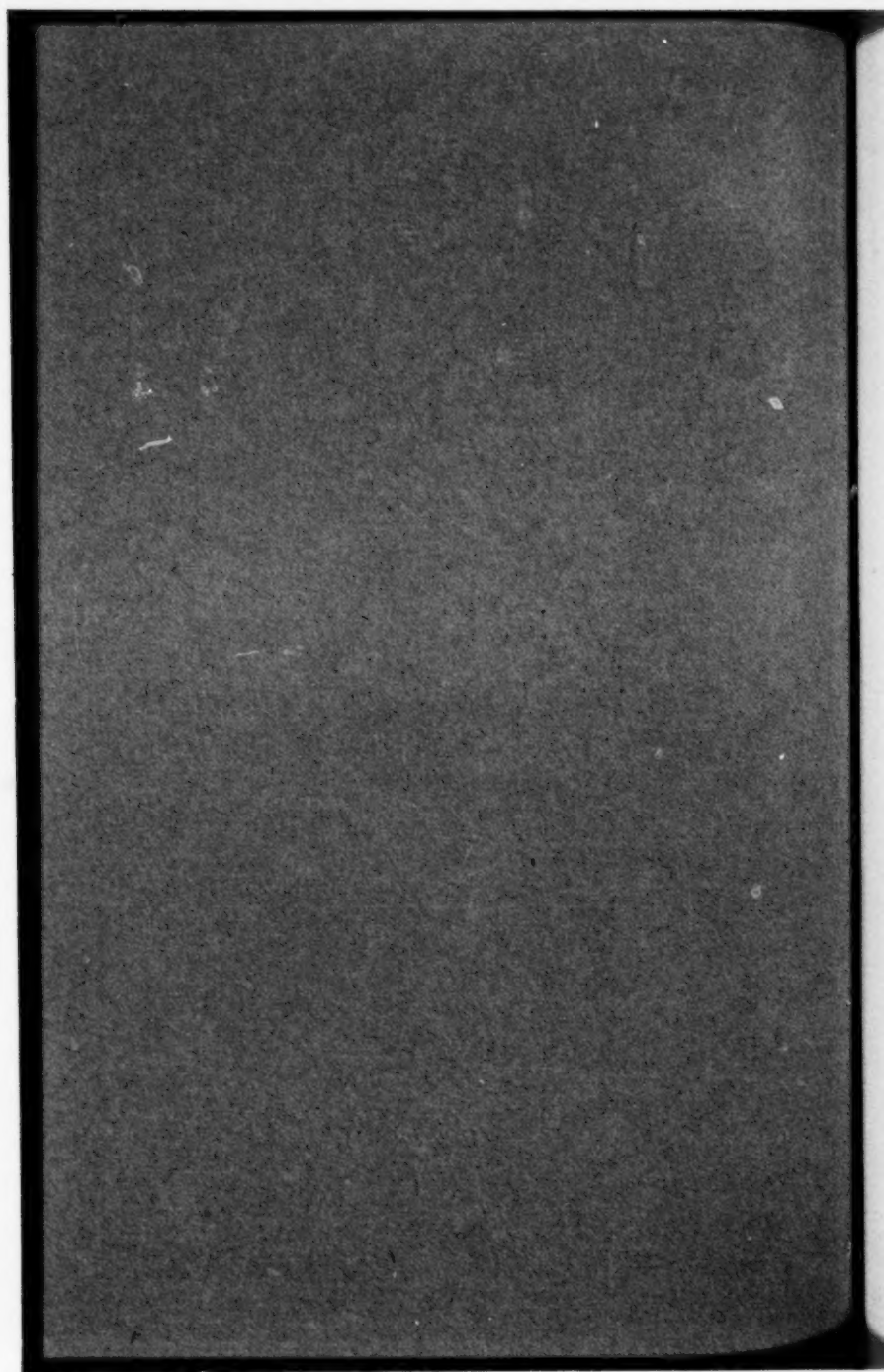
THE FEDERAL LAND BANK OF LOUISVILLE, et al,  
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE SIXTH CIRCUIT AND BRIEF  
IN SUPPORT THEREOF.

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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1946

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No. ....

**GREENE COUNTY NATIONAL FARM  
LOAN ASSOCIATION, and HAMBLEN  
COUNTY NATIONAL FARM LOAN  
ASSOCIATION,**

**Petitioners,**

**vs.**

**THE FEDERAL LAND BANK OF LOUIS-  
VILLE, a Corporation, and THOMAS P.  
COOPER, MARVIN J. BRIGGS, R. S. FOUTS,  
T. E. HORD, JR., W. E. STOUGH, CARL H.  
SCHWYN, AND JOE A. VITTITOW,**

**Respondents.**

---

**PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE SIXTH CIRCUIT AND BRIEF  
IN SUPPORT THEREOF.**

---

**TO THE HONORABLE CHIEF JUSTICE AND THE AS-  
SOCIATE JUSTICES OF THE SUPREME COURT  
OF THE UNITED STATES.**

Your petitioners, Greene County National Farm Loan Association and Hamblen County National Farm Loan Association respectfully show the Court:

## SUMMARY STATEMENT OF MATTERS INVOLVED

The respondent, The Federal Land Bank of Louisville, is a corporation, organized and existing under the laws of the United States. It is the Land Bank for the Fourth Farm Credit District, comprising the States of Ohio, Indiana, Kentucky and Tennessee. It will be hereinafter referred to as the Bank.

The respondents, Thomas P. Cooper, Marvin J. Briggs, R. S. Fouts, T. E. Hord, Jr., W. E. Stough, Carl H. Schwyn, and Joe A. Vittitow, are all members of and constitute the full Board of Directors of the Federal Land Bank of Louisville (Record 113). They will be referred to hereinafter as the directors.

The petitioners, Greene County National Farm Loan Association, and Hamblen County National Farm Loan Association, are both corporations, organized and existing under the laws of the United States. They will be hereinafter referred to as the Associations. They are now, and were, at the time of the institution of this suit, owners of several thousand shares of the capital stock of said Bank. As of December 31st, 1943, there were 1,582,326 shares of such Stock. The petitioners own approximately 5,000 shares and the remainder was owned by the other 432 Associations in the Fourth Farm Credit District except 1,984 shares held by 58 individual borrowers (Record 97, 98).

Stock in the Farm Loan Association and in the Federal Land Bank is acquired in the following manner:

The borrower purchases stock in the Association in the amount of \$5.00 for each \$100.00, or major fractional part thereof borrowed, and pledges this stock as collateral



security for the loan. The Association endorses the note to the Bank and, in turn, purchases a like amount of stock in the Bank and pledges such stock as collateral security for its endorsement liability. The stock of the borrowers is required to be paid off at par, and retired upon payment by the borrower of the loan in full. Where the Association is indebted to the Bank, the proceeds of the stock of the Association in the Bank are set off against such indebtedness (Record 102). Thereupon, the Association issues to the borrower the right to share in the net assets of the Association after all obligations of the Association have been satisfied (Exhibit 7, Record 143).

Through their liability to the Federal Land Bank on loans of their borrowers, and through loose business methods in the operation of their offices, several Associations in the Fourth Farm Credit District have, from time to time, become insolvent. The Federal Land Bank saw fit to classify the Associations in its District as follows:

A Class 1 Association is an Association which is, in all respects, solvent.

A Class 2 Association is an Association apparently unable to meet its obligations currently without a present impairment of capital, but which is expected to work out of its difficulties within a reasonable time.

A Class 3 Association is an association which is unable to meet its obligations currently without a material impairment of capital, but which impairment will not exceed the par value of its capital stock.

A Class 4 Association is an Association with a total impairment of capital (Record 98 and 99).

Each of the petitioners is classified as a Class I Association (Record 99).

On June 30th, 1943, of the 434 Associations in the Fourth Farm Credit District, 282 were in Class 1, 23 in Class 2, 85 in Class 3 and 46 in Class 4 (Record 99).

The respondent, The Federal Land Bank of Louisville, by resolution of the executive committee of said Bank, and with the approval of its directors, approved a plan for a consolidation of the 434 Associations in the Fourth Farm Credit District into 94 Associations. Said plan so adopted provided for the cancellation by said Bank of the then existing indebtedness to it of insolvent Associations amounting to \$1,480,286.41, and for the payment in cash from the assets of said Bank of the sum of \$1,004,875.00, to insolvent Associations to be used by them in paying in full to their borrowers the amount of their stock, evidenced by the stock retirement certificates theretofore issued to them. The plan provided also for the establishment by the Bank of reserves to the extent necessary to take care of future estimated losses of the Associations. The reserves to be so established amounted to \$620,333.00 (Exhibit, Record 345). This plan was submitted to the Farm Loan Associations of the Fourth Farm District for their approval, and was rejected by petitioners.

On the 5th day of January, 1944, petitioners, and two other Associations, suing for the benefit of themselves and all other stockholders, filed their bill of complaint in the United States District Court for the Western District of Kentucky at Louisville attacking that part of said plan which proposed to cancel the entire debts of, pay large sums of money to, and set up reserves for other stockholders of said Bank, as an illegal use of corporate funds and a discrimination of the respondent Bank among its stockholders. They prayed for an injunction against such use of the corporate funds, and for judgment against the directors for

any loss that had been sustained. Bill of Complaint (Record 2 to 10).

After filing their said bill, petitioners were advised that the Land Bank had already distributed to some of its stockholders the sum of \$979,144.80, and thereupon, and before a responsive pleading had been served on them, they amended their original bill and prayed that the distributions so made to stockholders constitute a dividend, and that they, and all other stockholders should have and recover similar amounts based upon the stock held by the respective stockholders, or, in the alternative, that they have and recover judgment against the members of the Board of Directors, and the respondent corporation for the illegal use of corporate funds (Record 18 to 19).

The Federal Land Bank and its directors filed their respective answers admitting that the sum of \$979,144.80 had already been paid out to insolvent Associations in order to enable them to satisfy the claims of former members, and that additional payments, cancellation of credits and the establishment of reserves, as set out in the plan, were anticipated. They alleged as justification for the plan, a savings in the operation of the Bank and intangible benefits passing to the corporation from a general improvement of the Land Bank and the Farm Loan Associations within its jurisdiction (Answer, Record 22 to 31).

In the proposed plan which is filed as Exhibit "B" to the answer of respondent Bank, it is stated:

"The fundamental consideration, however, though intangible from the standpoint of dollar measurement, is the permanently beneficial effects of the consummation of this plan upon the welfare, and particularly upon the financial improve-

ment of the Louisville Bank and the associations serving as a credit institution for the farmers of the Fourth District." (Record 48).

Because of the fact that the Farm Credit Administration has general supervision of the Federal Land Banks and Farm Loan Associations, and had been instrumental in obtaining the approval of the expenditures complained of, it was named as a party defendant in the bill of complaint.

The Farm Credit Administration moved the Court to dismiss the complaint as to it, because it was an agency of the United States Government and not subject to suit. This motion was sustained (Record 76 and 77).

Thereupon petitioners amended their original bill so as to name as parties defendant the Commissioners of the Farm Credit Administration (Record 78, 79). However, service of process on the Commissioners was not obtained.

The suit was tried in the United States District Court on a stipulation of facts and Exhibits attached thereto (Record 90 et seq.).

The case was presented to the Court and argued on May 9th, 1944 (Record 403).

Briefs were then filed and the case taken under advisement until November 16th, 1944, at which time the District Judge filed his findings of fact and conclusions of law, holding that the corporation and its directors had a legal right to make the disbursements and cancel the credits complained of.

Opinion and Findings of Fact and Conclusions of Law (Record 403 to 421).

A decree was entered adjudging the issues against petitioners and in favor of respondents, to which action petitioners excepted (Record 421).

Thereupon petitioners filed their petition for a rehearing (Record 422 to 424). Said petition for a rehearing was overruled (Record 424). Petitioners, thereupon, filed notice of appeal and bond.

Appeal was perfected to the Circuit Court of Appeals for the Sixth Circuit.

On the 13th day of December 1945, the Circuit Court of Appeals filed its opinion, affirming the judgment of the District Court. (Record pp. 439—448).

## — II —

### **BASIS OF JURISDICTION TO REVIEW**

Jurisdiction is invoked under Section 240(a) of the Judicial Code as amended by the Act of February 13th, 1925, 28 U.S.C.A. 347(a).

The opinion of the Circuit Court of Appeals for the Sixth Circuit was filed on December 13th, 1945. (Record 439), and the judgment of the Circuit Court of Appeals affirming the decree of the District Court was entered on the same date. (Record 437).

## — III —

### **QUESTIONS PRESENTED**

Two fundamental questions are presented.

(1) Whether or not a corporation under the supervision and control of an agency of the United States Govern-

ment has the same powers, duties and liabilities in its relationship to its stockholders as a private corporation, except in so far as its powers, duties and liabilities may be changed by an express provision of the Statute under which it is created.

In the case at bar, the Circuit Court of Appeals held that the controversy does not lie in the field of private corporation law. (Record 445).

(2) Whether the respondents, Federal Land Bank of Louisville, and its directors, have, under the provisions of the Federal Farm Loan Act, either expressed or implied power to distribute corporate assets, amounting to three million dollars to one-third of its stockholders to the exclusion of the other two-thirds, except for an adequate and tangible consideration.

The Circuit Court of Appeals failed to find that there was an adequate and tangible consideration for such a distribution of funds, and held that the allocation of funds in conformity with the plan was justified and an expedient for carrying out the broad public purposes of the Statute under which the Federal Land Bank of Louisville was created.

(Opinion, Circuit Court of Appeals, Record 448).

#### — IV —

### REASONS RELIED ON FOR ALLOWANCE OF WRIT

(1) The principal question involved is a question of Federal law of national importance which has not been, but should be settled by this Court.

(2) The Circuit Court of Appeals has decided a Federal question, probably in conflict with the applicable decisions of this Court. Unless this Court should find and hold that the principles of law applicable to the relation of corporation and stockholders in private corporations are not applicable to corporations created under the Statutes of the United States and under the control and supervision of a Federal agency, the opinion of the Court of Appeals is in conflict with the following decisions of this Court:

**Head & Armory v. The Prudential Life Insurance Co.,** 2 Cranch, 127, 2 Law Ed., 229, wherein this Court first declared the limitation of corporate powers to be precisely what the corporate act has made it.

**B. & O. Railroad Co., v. Harris,** 79 U.S. 69, wherein the Court held that a corporation can do only what is authorized by its charter and the Statutes under which it is created.

**Rice v. Minnesota and Northwestern R.R. Co.,** 66 U.S. 359, and **Louisville C. & C. R. Co., vs. Leston,** 43 U.S. 497, wherein the Court held that corporate powers are to be strictly construed and that no rights are given but what are granted in clear and explicit terms.

**Page, Exr., v. United States,** 78 U.S. 268, wherein the Court held that a corporation holds its stock as a quasi trustee for its stockholders, creating a fiduciary relationship, which requires dealing at arm's length.

Wherefore, your petitioners pray that a writ of certiorari be issued out of and under the seal of this Court, directed to the Circuit Court of Appeals for the Sixth Circuit, commanding said Court to certify and send to this Court, a full and complete transcript of the record of the proceedings in said Circuit Court of Appeals had in

the case numbered and entitled on its docket, No. 10034, Greene County National Farm Loan Association, et al, appellants, vs. The Federal Land Bank of Louisville, et al, appellees, to the end that this cause may be reviewed and determined by this Court, as provided for by the Statutes of the United States, and that the judgment of said Circuit Court of Appeals be reversed by this Honorable Court, and that your petitioners may have such other and further relief as to this Court may seem proper.

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LOAN ASSOCIATION, and HAMBLEN  
COUNTY NATIONAL FARM LOAN  
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